

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

Index No.:**RAMEL MCCLOSTER,****Date Purchased:**

Plaintiff,

Date Filed:

– against –

SUMMONS**CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, DETECTIVE ANTHONY DISIMONE,
DETECTIVE LISANDRO RIVERA, POLICE OFFICER
JOHN DOE and POLICE OFFICER JOHN ROE,**Plaintiff designates Bronx County as the
place of trial. The basis of venue is the
action arose in Bronx County.

Defendant(s).

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney within 20 days after the service of the summons, exclusive of the day of service or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the notice set forth below and in the within Verified Complaint.

Date: Bronx, New York
August 4, 2017**NEIL WOLLERSTEIN, ESQ.**Attorney for Plaintiff
895 Sheridan Avenue
Bronx, New York 10451
Tel: (718) 588-1300
Fax: (917) 522-9703

TO: ZACHARY W. CARTER, ESQ.
Corporation Counsel of City Of New York
100 Church Street
New York, NY 10007

NEW YORK CITY POLICE DEPARTMENT
1 Police Plaza
New York, NY 10038

DETECTIVE ANTHONY DISIMONE (Shield No. 0340)
New York City Police Department
1 Police Plaza
New York, NY 10038

DETECTIVE LISANDRO RIVERA (Shield No. 5877)
New York City Police Department
1 Police Plaza
New York, NY 10038

POLICE OFFICER JOHN DOE
New York City Police Department
1 Police Plaza
New York, NY 10038

POLICE OFFICER JOHN ROE
New York City Police Department
1 Police Plaza
New York, NY 10038

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

RAMEL MCCLOSTER,**INDEX NO.:**

Plaintiff,

– against –

VERIFIED COMPLAINT**CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, DETECTIVE ANTHONY DISIMONE,
DETECTIVE LISANDRO RIVERA, POLICE OFFICER
JOHN DOE and POLICE OFFICER JOHN ROE,**

Defendant(s).

Plaintiff, by his attorney, **NEIL WOLLERSTEIN, ESQ.**, complaining of the defendants, respectfully shows to this Court and alleges the following upon information and belief:

1. Plaintiff **RAMEL MCCLOSTER** is currently a resident of County of the Bronx, City and State of New York.
2. That at all times hereinafter mentioned, the defendant, **CITY OF NEW YORK**, hereinafter referred to as “CITY”, was and still is a municipal corporation organized and existing under and by virtue of the laws of the State of New York.
3. That at all times hereinafter mentioned the defendant, **NEW YORK CITY POLICE DEPARTMENT**, hereinafter referred to as “NYPD”, was and is an agency of the defendant, **CITY**.
4. That on and prior to 5/18/16 and at all times hereinafter mentioned the defendant, **DETECTIVE ANTHONY DISIMONE** (Shield No. 0340), hereinafter referred to as “DISIMONE” was and is a police officer employed by the defendant NYPD, and at all times herein was acting in such capacity as the agent, servant and employee of the **CITY** and **NYPD**.
5. That on and prior to 5/18/16 and at all times hereinafter mentioned the defendant, **DETECTIVE LISANDRO RIVERA** (Shield No. 5877), hereinafter referred to as “RIVERA” was

and is a police officer employed by the defendant NYPD, and at all times herein was acting in such capacity as the agent, servant and employee of the CITY and NYPD.

6. That on and prior to 5/18/16 and at all times hereinafter mentioned the defendant, POLICE OFFICER JOHN DOE, hereinafter referred to as "DOE" was and is a police officer employed by the defendant NYPD, and at all times herein was acting in such capacity as the agent, servant and employee of the CITY and NYPD.

7. That on and prior to 5/18/16 and at all times hereinafter mentioned the defendant, POLICE OFFICER JOHN ROE, hereinafter referred to as "ROE" was and is a police officer employed by the defendant NYPD, and at all times herein was acting in such capacity as the agent, servant and employee of the CITY and NYPD.

8. Upon information and belief, at all times hereinafter mentioned, and on 5/18/16, at approximately 4:00 p.m., several police officers including but not limited to DISIMONE, RIVERA, DOE and ROE were on duty and in the vicinity of 726 East 152nd Street, County of Bronx, City and State of New York.

9. Upon information and belief, at all times hereinafter mentioned, and on 5/18/16, at approximately 4:00 p.m., the above mentioned Police Officers were acting within the scope of their employment and under the direction of the CITY and NYPD as it's agents, servants and/or employees.

10. Upon information and belief, defendants DISIMONE, RIVERA, DOE and ROE were all assigned to the Bronx Narcotics.

11. That on and prior to 5/18/16 DISIMONE, RIVERA, DOE and ROE were each individually hired, screened, tested, interviewed, trained, retrained, investigated, monitored and supervised by the CITY and NYPD.

12. That on and prior to 5/18/16, at approximately 4:00 p.m., and all relevant times herein after, DISIMONE, RIVERA, DOE and ROE individually and/or collectively were acting pursuant to and under the rules and regulations of the New York City Patrol Guidelines.

13. That on 5/18/16, at approximately, 4:00 p.m., Plaintiff **RAMEL MCCLOSTER** was lawfully in the vicinity of 726 East 152nd Street, County of the Bronx, City and State of New York and doing nothing illegal, improper or acting suspicious in anyway.

14. That on 5/18/16, at approximately, 4:00 p.m., in the vicinity of 726 East 152nd Street, County of Bronx, State of New York, DISIMONE, RIVERA, DOE and ROE, absent an arrest warrant, probable cause, reasonable cause or any legal justification, approached Plaintiff **RAMEL MCCLOSTER** for no reason, and based on fraud, perjury and misrepresentations, and summarily stopped, searched, grabbed, assaulted, battered, and detained him in an aggressive and excessive manner.

15. Upon information and belief DISIMONE, RIVERA, DOE and ROE knew or had reason to know that their actions lacked any legal justification in approaching, searching, seizing and arresting Plaintiff **RAMEL MCCLOSTER** and said actions were based on fraud, perjury and misrepresentations.

16. Upon information and belief, Plaintiff **RAMEL MCCLOSTER** was subjected to a strip search while in the custody of defendants without any legal reason or justification.

17. That Plaintiff **RAMEL MCCLOSTER** was arraigned after his arrest and thereafter falsely and maliciously prosecuted with committing a crime.

18. Thereafter, Plaintiff **RAMEL MCCLOSTER** remained incarcerated for over 24 hours and was required to make numerous court appearances over an extended period of time until all charges against him were terminated favorably.

19. Plaintiff **RAMEL MCCLOSTER** sustained physical and emotional pain and injuries as a result of this incident.

20. That within ninety (90) days after the causes of actions accrued herein, and more than thirty (30) days prior to the commencement of this action, the Plaintiff **RAMEL MCCLOSTER** caused the notice of claim, in writing, sworn to by and on behalf of the claimants, the Plaintiff herein, containing the statement of the name and place of residence of the claimants by the street and number and their attorney, and describing the time when the particular claim and circumstances under which the damages and injuries were sustained, the cause thereof, and so far as practical, the nature and extent of the injuries to be personally served upon the defendant CITY, their agents, servants and/or employees at the Law Department.

21. This action was so commenced within one (1) year and ninety (90) days after said cause of action accrued herein, and for more than thirty (30) days prior to the commencement of this action, defendant CITY neglected, refused and failed to make an adjustment of said claim, and said claim remains unadjusted and unpaid, although plaintiff herein has requested and demanded that the same be paid and adjusted.

22. That the defendants requested an oral examination pursuant to General Municipal Law Section 50-H and said request was complied with.

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

23. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 – 22 with the same force and effect as if fully set forth at length herein.

24. That on or about 5/18/16, at approximately 4:00 p.m., the Plaintiff **RAMEL**

MCCLOSTER was without just cause, probable cause or provocation, and with reckless, negligent and callous disregard for the truth, and without investigation, touched, grabbed, handcuffed, seized and arrested in an excessive manner and with excessive force by CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, their agents, servants and/or employees, and in particular, by DISIMONE, RIVERA, DOE and ROE.

25. That on or about 5/18/16, at approximately 4:00 p.m., the Plaintiff **RAMEL MCCLOSTER** while lawfully in the vicinity of 726 East 152nd Street, County of the Bronx, City and State of New York, was without just cause, probable cause or provocation, maliciously, intentionally and falsely accused by CITY, NYPD, DISIMONE, RIVERA, DOE and ROE of having committed a crime.

26. That on or about 5/18/16, and upon arresting the Plaintiff **RAMEL MCCLOSTER** and depriving him of his liberty, CITY, NYPD, DISIMONE, RIVERA, DOE and ROE took the Plaintiff **RAMEL MCCLOSTER** to a police station in the County of Bronx and entered him on the records as under arrest.

27. That on or about 5/18/16, the CITY, NYPD, DISIMONE, RIVERA, DOE and ROE further caused Plaintiff **RAMEL MCCLOSTER** to have his fingerprints and photographs to be taken without his consent and in accordance with police procedures for the arrest of criminals and held him on various criminal charges at various police stations, correctional facilities and at the Courthouse located at 215 East 161st Street, County of Bronx, City and State of New York.

28. That on or about 5/18/16 Plaintiff **RAMEL MCCLOSTER** was aware of his arrest and confinement, he did not consent to his arrest or confinement, and said confinement, seizure, arrest and detention was without legal justification.

29. That at all times hereinafter mentioned the actions of CITY, NYPD, DISIMONE,

RIVERA, DOE and ROE as described above were carried out in a reckless, deliberate, willful, wanton, malicious and grossly negligent manner.

30. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

31. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 – 30 with the same force and effect as if fully set forth at length herein.

32. That on or about 5/18/16, a criminal complaint was issued by the CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, their agents, servants and/or employees, without probable cause, reasonable cause or legal justification and said complaint was filed based on fraud, perjury and misrepresentations.

33. That on or about 5/18/16 a criminal action against Plaintiff **RAMEL MCCLOSTER** was commenced by CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, their agents, servants and/or employees, without probable cause, reasonable cause or legal justification.

34. That solely as a result of the aforesaid, the Plaintiff **RAMEL MCCLOSTER**' life was interfered with.

35. That the criminal action against Plaintiff **RAMEL MCCLOSTER** was continued for an extended period of time by defendants with malice and bad faith.

36. That solely as a result of the false arrest, assault, battery, false imprisonment and malicious prosecution of the Plaintiff **RAMEL MCCLOSTER**, he was deprived of his liberty for an extended period of time and was subjected to scorn, ridicule, embarrassment and was degraded in the

esteem of the community both personally and professionally.

37. That the criminal action against Plaintiff **RAMEL MCCLOSTER** was terminated favorably.

38. That the actions of CITY, NYPD, DISIMONE, RIVERA, DOE and ROE as described above were carried out in a reckless, deliberate, willful, wanton, malicious and grossly negligent manner.

39. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

40. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 – 39 with the same force and effect as if fully set forth at length herein.

41. That on or about 5/18/16, and while in the custody of the defendants in the County of the Bronx, City and State New York, the Plaintiff **RAMEL MCCLOSTER** was intentionally touched, pushed, assaulted, battered, violated, strip searched, humiliated, photographed and handcuffed by the CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, who were acting within the scope of their employment and authority in such a manner as to knowingly cause injury to plaintiff.

42. That on or about 5/18/16 CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, their agents, servants and employees, acting as agents and on behalf of the CITY, NYPD, DISIMONE, RIVERA, DOE and ROE, within the scope of their employment, did intentionally, willfully and maliciously assault and batter the Plaintiff **RAMEL MCCLOSTER** in that they have the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did a

violent and/or menacing act which threatened such contact to the Plaintiff **RAMEL MCCLOSTER** and their act caused apprehension of such contact in the plaintiff, and in a hostile and/or offensive manner touched and beat the plaintiff and/or offensive bodily contact to the Plaintiff **RAMEL MCCLOSTER** and caused such battery in and about his head, neck, back, body and limbs.

43. That by reason of the aforesaid intentional assault and battery which was committed in an excessive manner and with excessive force and without legal justification or privilege by the defendants, their agents, servants and employees, who were acting within the scope of their employment and authority and without any probable or reasonable cause, Plaintiff **RAMEL MCCLOSTER** suffered great and permanent bodily injury in and about his head, neck, back, body and limbs and was rendered sick, sore, lame and disabled, and suffered conscious pain and suffering, and that he was otherwise damaged.

44. That as a result of the aforesaid assault and battery the Plaintiff **RAMEL MCCLOSTER** was caused to sustain serious, severe, painful and permanent bodily injuries so that he was rendered sick, sore, lame and disabled and so remains and was and will be compelled to seek medical aid and attention and incur expenses for same in an endeavor to cure himself of his said injuries and he was and will be prevented from attending his usual occupation and duties.

45. That at all times hereinafter mentioned the actions of CITY, NYPD, DISIMONE, RIVERA, DOE and ROE as described above were carried out in a reckless, deliberate, willful, wanton, malicious and grossly negligent manner.

46. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF

PLAINTIFF RAMEL MCCLOSTER

47. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 – 46 with the same force and effect as if fully set forth at length herein.

48. That the CITY, NYPD, their agents, servants and employees were negligent, careless and reckless in hiring, retaining, training, monitoring, retraining, supervising and promoting its employees including but not limited to DISIMONE, RIVERA, DOE and ROE, in that said police officers, as employees of CITY and NYPD, were not qualified to be hired or retained or promoted as police officers, lacked the experience, skill, training and ability to be employed, retained and utilized in the manner that each was employed by CITY and NYPD.

49. That the CITY and NYPD failed to exercise due care and caution in its hiring, retaining, training and/or promoting practices in that CITY and NYPD failed to adequately test, analyze test results, and/or investigate above mentioned police officers backgrounds and performances.

50. That the CITY and NYPD failed to exercise due care and caution in its hiring, retaining, training and/or promoting practices in that CITY and NYPD failed to adequately screen said police officers, failed to adequately monitor said police officers, and failed to adequately discipline said police officers when they violate Patrol Guidelines.

51. Defendant CITY and NYPD were also negligent in that prior to and at the time of the acts complained of herein, due to the prior history of the police officer defendants named herein, knew or should have known of the bad disposition of said defendants, or at the very least had knowledge of facts that would put a reasonably prudent employer on inquiry concerning their bad disposition and the fact that defendant police officers were not suitable to be hired and employed by

the CITY and NYPD and that due to their lack of training, these officers should have had adequate supervision so that they would not arrest innocent individuals nor use excessive force during the arrest process.

52. That by reason of the above, the Plaintiff **RAMEL MCCLOSTER** was injured in mind and body as he was arrested, prosecuted and rendered sick, sore, and damaged.

53. That at all times hereinafter mentioned the actions of CITY, NYPD and all defendants herein as described above were carried out in a reckless, deliberate, willful, wanton, malicious and grossly negligent manner.

54. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A FIFTH CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

55. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1-54 with the same force and effect as if fully set forth at length herein.

56. In arresting Plaintiff **RAMEL MCCLOSTER**, police officers including but not limited to DISIMONE, RIVERA, DOE and ROE, acting in their capacity as agents, servants and employees of CITY and NYPD, were motivated by an ulterior purpose to do harm, without justification or economic or social excuse.

57. In arresting Plaintiff **RAMEL MCCLOSTER**, police officers including but not limited to DISIMONE, RIVERA, DOE and ROE, acting in their capacity as agents, servants and employees of CITY and NYPD, sought either a detriment to Plaintiff **RAMEL MCCLOSTER** or a collateral advantage to the CITY and NYPD that is outside the legitimate ends of effectuating an

arrest.

58. As a result of the abuse of process by defendants herein, Plaintiff **RAMEL MCCLOSTER** sustained multiple injuries including but not limited to loss of liberty, emotional distress, humiliation, loss of enjoyment of life, and fear and intimidation for his safety.

59. That at all times hereinafter mentioned the actions of CITY, NYPD and all defendants herein as described above were carried out in a reckless, deliberate, willful, wanton, malicious and grossly negligent manner.

60. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A SIXTH CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

61. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 - 60 with the same force and effect as if fully set forth at length herein.

62. That on 5/18/16, at approximately 4:00 p.m., within the vicinity of 726 East 152nd Street, County of, City and State of New York, the CITY and NYPD were present through its agents, servants and/or employees including but not limited to DISIMONE, RIVERA, DOE and ROE who were acting in the course of their employment and under the color of law to wit: the statutes, ordinances and regulations, policies and customs and usage of the State of New York and/or City of New York.

63. That Plaintiff **RAMEL MCCLOSTER** was lawfully in the above vicinity at the above time when he was stopped, questioned, searched and seized solely on the basis of his age and/or race and for no legal or legitimate reason.

64. That said illegal stop and seizure was part of the CITY'S custom and practice and/or practice of racial profiling, and/or meeting arrest or summons quotas, and/or the illegal stop and search of civilians which was authorized by, or met with the tacit approval of the CITY and NYPD under their "Stop, Question and Frisk" policy or program ("Stop and Frisk").

65. That under the "Stop and Frisk" program the CITY and NYPD permitted, condoned, or acted with deliberate indifference to the racial disparity of its' application, to the fact that unnecessary or illegal frisks or searches were conducted, that very low percentages of seizures, frisks and searches resulted in arrests or the recovery of contraband, that pretextual reasons are provided for "Stop and Frisk", that officers do not always fill out Stop and Frisk reports, i.e. UF-250s, and are not disciplined when they fail to do so, that stop and frisks are conducted without reasonable suspicion, and that the program of "Stop and Frisk" has resulted in illegal stops, seizures, frisks, arrests and the use of physical force.

66. That the CITY and NYPD have failed to discipline, train, monitor or retrain offending police officers who engaged in stops and frisks without any legal justification and has failed to discipline police officers who fail to fill out required UF-250s.

67. That the CITY and NYPD have failed to adequately investigate and/or discipline officers who use excessive force, stop and frisk innocent citizens who have not done anything illegal or acted in suspicious manner warranting a seizure, who failed to report misconduct of fellow officers, who destroy evidence, who engage in fraud, misrepresentations, deceit, and maliciously participate in and instigate prosecutions of innocent citizens.

68. It is alleged herein that Plaintiff **RAMEL MCCLOSTER** was stopped and seized absent reasonable suspicion. That said actions of defendants were pursuant to an illegal and improper Stop and Frisk program that was promulgated by defendants. That such custom, policy and

program has created a class of citizens, including Plaintiff **RAMEL MCCLOSTER**, who have been illegally stopped and seized, searched and questioned based on their race, and in order to meet arrest quotas. Evidence of said policy is as follows:

a. That in a class action lawsuit David Floyd, et. al. v. City of New York, et. al., pending in United States District Court, Southern District of New York, 08 CIV 1034, in a decision dated 5/16/12 certifying a class action lawsuit, it was found that between the years of 2005 and 2009 a reported 2.8 million people in New York City have been stopped and frisked. Of said number more than 87% were minority citizens. Summons and arrests were issued or made in approximately 10% of the reported stops. Meaning that based on their own records, defendants' suspicions are incorrect approximately 9 out of 10 stops.

b. The Honorable Shira A. Scheindlin, found in the Floyd decision that:

- i. It is indisputable that NYPD has an enormous Stop and Frisk program;
- ii. Evidence shows that the Stop and Frisk program is organized and hierarchical;
- iii. Stop and Frisk program has been designed and revised at highest levels of defendants;
- iv. The implementation of the program is conducted according to uniform and centralized rules;
- v. Monitoring of the program is hierarchical;
- vi. The program is the result of institutional decisions and directives.

c. Justice Sheindlin further found that a preponderance of evidence shows that defendants policy of establishing performance standards and demanding increased levels of stop and frisks results in putative class of aggrieved citizens. The Court noted that street level stops have risen every year. That in 2004, defendants documented 313,000 stops, and in 2011 they reported 684,000

stops. In a Police Officer Performance Objectives Operation Order dated 10/17/11, Commissioner Kelly directed that “Department managers can and must set performance goals – relating to “the issuance of summons, the stopping and questioning of suspicious individuals and the arrests of criminals.” It further states that “uniformed members who do not demonstrate activities . . . or who fail to engage in proactive activities . . . will be evaluated accordingly and their assignments reassessed.”

69. Other instances of an illegal and/or improper stop and frisk program custom or practice and/or excessive use of force and filing of false charges includes but not limited to:

a. On 4/12/11 in the vicinity of Walton Avenue and Mt. Hope Place, Bronx, NY, while doing nothing illegal or improper, Lonnie Thompson was approached by several uniformed police officers for no reason and without reasonable suspicion. After being stopped, Mr. Thompson was patted down and searched. He was arrested and charged with Criminal Possession of a Weapon in the Fourth Degree. This, even though the weapon was a bona fide work tool. Mr. Thompson was subjected to a strip search at the 40th Precinct. All charges were dismissed.

b. On 5/4/11 in the vicinity of 2345 Jerome Avenue, Bronx, NY, Alexis Niewkerk, who is handicapped, was sitting in his legally parked vehicle and waiting for his friends to finish shopping at a nearby store. All of a sudden several undercover police officers from Bronx Narcotics approached his vehicle for no reason and without reasonable suspicion ordered him out of said vehicle. Mr. Niewkerk was subjected to a pat down and search. He was subsequently arrested for possession of a controlled substance in the seventh degree even though the “substance” recovered from his pants pocket was his own prescribed pain medication. Mr. Niewkerk was subjected to a strip search and forced to move his body in ways that are extremely painful given his medical status and condition. All charges were dismissed.

c. On 6/2/11 in the vicinity of 985 Simpson Street, Bronx, NY, Jesus Rosario, an infant, was approached by several police officers from the 41st Precinct. He was told to “get on the wall” and thereafter patted down and searched. Mr. Rosario was accused of Trespassing in the Second Degree. Mr. Rosario was doing nothing illegal or improper at the time the officers approached as he was simply exiting 985 Simpson Street after visiting his father who resides in said building. After being arrested, Mr. Rosario was subjected to a strip search at the 41st Precinct. The case was declined to be prosecuted by the District Attorney’s Office.

d. On 8/1/12 in the vicinity of 1000 Simpson Street, Bronx, NY Nicholas Hernandez and Dilson Pena were sitting outside of their building on a public bench and doing nothing illegal or improper. All of a sudden, several police officers from the 41st Precinct approached them for no reason and told them to submit to a frisk. Mr. Hernandez and Mr. Pena were accused of possession of marihuana even though no marihuana was recovered. They were each subjected to a strip search at the 41st Precinct. All charges against them were declined to be prosecuted by the District Attorney’s Office.

e. On 1/22/11 in the vicinity of 808 Park Avenue, Brooklyn, NY, Captain Michelle Culp, a now retired Captain for New York City Department of Corrections, was visiting her sick and elderly mother at the aforementioned address and decided to walk her mother’s dog. In so doing, Captain Culp was approached by several uniform housing police officers and accused of Trespassing in the Second Degree. She was patted down and searched. This, despite the fact that Captain Culp explained that she was visiting her mother and her identification and personal belongings were in her mother’s apartment in the same building. All charges were dismissed.

f. On 5/20/11 in the vicinity of Park Avenue and East 138th Street, Bronx, NY, Patrick Nielson was exiting the number 4 subway train and going to his car which was parked nearby when

he was followed, stopped, frisked, and assaulted by several undercover police officers from Bronx Narcotics for no reason. Thereafter, he was arrested and accused of possession of a controlled substance. Mr. Nielson was subjected to a strip search. The “controlled” substance was Mr. Nielson’s prescribed medicine. All charges were dismissed.

g. On 6/22/10 in the vicinity of 139th Street and Lenox Avenue, New York, NY, Wilford Person was approached by several undercover police officers from Manhattan North Narcotics for, no legitimate reason. Mr. Person was thereafter told to get against a fence and patted down and searched. He was accused of possession of marihuana. Mr. Person was simply playing basketball at the time the police approached him. After being arrested and subjected to a strip search Mr. Person was prosecuted. All charges were eventually dismissed.

h. On 5/2/12 in the vicinity of 1912 Third Avenue, New York, NY, Jose Baez, the manager of a local eyeglass store, left the store to buy his lunch. After leaving the store Mr. Baez, for no reason at all, was approached by several undercover police officers from Manhattan North Narcotics, and was detained, patted down, searched, and falsely accused of selling marihuana. Mr. Baez was subjected to a strip search. All charges against him were dismissed.

i. On 11/13/10 in the vicinity of 1113 Boston Road, Bronx, NY, Alpha Mahoi, was doing nothing illegal or improper when, for no reason, he was approached by several undercover police officers from Bronx Narcotics and accused of being involved in the sale of cocaine. He was cuffed, patted down, searched, arrested and strip searched at the precinct. All charges were dismissed.

j. On 3/10/12 in the vicinity of 1821 Davison Avenue, Bronx, NY, Keyewanie Blackledge, Dwayne Smith and Richard Campbell were leaving his friend’s apartment when they were approached by several uniform police officers from the 40th Precinct for no reason and told to “get on the wall” and “get on the floor” and thereafter patted down and searched. They was charged

with Trespassing in the Second Degree. All charges were dismissed.

k. On 8/1/12 in the vicinity of 1000 Simpson Street, Bronx, NY, Dylan Pena was outside recording on his cell phone several police officers from the 41st Precinct arresting a person from the neighborhood. Upon seeing Mr. Pena recording the incident several police officers grabbed him and pushed him to the ground and seized his cell phone without any reason to do so. All data on the phone was subsequently erased by the officers. Mr. Pena was also patted down and searched. He was charged with resisting arrest and was strip searched at the 41st Precinct. The charges were declined to be prosecuted by the District Attorney's Office.

l. On 5/17/11 in the vicinity of 1690 Clay Avenue, Bronx, NY, Gregory Williams was leaving a family friend's apartment after helping her move furniture so she could clean. Upon exiting the building Mr. Williams, for no reason at all, was approached by several uniformed police officers from the 44th Precinct and patted down and searched. He was accused of Trespassing in the Second Degree despite his family friend informing the police officers at the scene and at the 44th Precinct that he had permission to be in the building. Mr. Williams was strip searched. All charges against him were dismissed.

m. On 3/16/11 in the vicinity of 1740 Grand Avenue, Bronx, NY, Lindon Grant just left his apartment to walk approximately 1 block to buy breakfast before going to work. After he bought his breakfast and left the store he was approached by several undercover police officers from the 40th Precinct for no reason and patted down and searched. He was then accused of selling marihuana. Mr. Grant was arrested, strip searched and prosecuted for several months. All charges were dismissed.

n. On 8/2/09 in the vicinity of Southern Boulevard and East 175th Street, Bronx, NY Jose Suazo was approached by several uniformed officers from the 42nd Precinct for no reason. Mr.

Suazo was patted down and searched. Despite the fact that he had nothing illegal on his person he was charged with possession of marihuana. While already in custody in a police van shots were fired in a nearby park. When Mr. Suazo got to the precinct he found out that even though he was already in custody in the police van when the shots were fired, he was charged with possession of a weapon in the second degree. Mr. Suazo was subjected to a strip search. All charges were eventually dismissed.

o. On 8/12/19 in the vicinity of 894 Rogers Place, Bronx, NY, Edmanuel Benitez was standing outside of the building and waiting for a friend to come outside to play basketball. All of a sudden he was approached for no reason by officers from the 41st Precinct and thereafter patted down, searched, arrested, strip searched and prosecuted for the sale of marihuana. All charges were dismissed.

p. On 2/19/12 Daniel Rodriguez was leaving a store in the vicinity of Jerome Avenue and West 192nd Street when he was summarily grabbed, pushed against a wall, patted down, frisked, searched and then handcuffed by several officers from Bronx Narcotics. Mr. Rodriguez was doing nothing illegal or improper at the time. He was subsequently strip searched and charged with possession of a controlled substance in the seventh degree. All charges were dismissed.

q. On 9/28/11 Shakeem Enang was in the vicinity of West 179th Street and University Avenue when he was approached by several plain clothes officers from Bronx Narcotics Division. Mr. Enang was doing nothing illegal at the time the officers approached or anytime prior to the officers approaching. He was grabbed, seized, frisked, searched and then arrested. Mr. Enang was charged with criminal sale of a controlled substance. He was strip searched at the 40th Precinct. All charges were dismissed.

70. As is evidence from the above, Plaintiff **RAMEL MCCLOSTER'S** injuries including

the violation of his constitutional rights, the deprivation of his freedom, falsely and maliciously being prosecuted, physical and emotional injuries, are the direct and proximate result of the CITY'S and NYPD'S policies and/or deliberate indifference to practices which involve the excessive use of force, false arrest, police cover-ups, witness intimidation, malicious prosecution, illegal stop, questions and frisks, strip searches, Fourth Amendment violations, and deliberate indifference to the need to train, supervise, monitor, investigate and discipline, including suspension, dismissal and/or reassignment offending police officers. The practice is widespread and pervasive throughout the entire City of New York.

71. The CITY and NYPD knew or should have known of the customs and police practices of its officers which included but was not limited to: the failing to preserve and/or destruction of exculpatory evidence, threatening to arrest witnesses to police misconduct and engaging in cover-ups, fraud, perjury, deceit and malfeasance.

72. That the acts of employees of the CITY and NYPD, i.e. police officers, who violate the civil and constitutional rights of the citizens of the City of New York routinely go unreported, undisciplined and their acts condoned by other officers, including their supervisors. Upon information and belief, the supervisors of defendant police officers herein were aware of the conduct of defendant police officers and failed to stop, report or intervene in the misconduct.

73. The CITY and NYPD'S tolerance for brutality, excessive force, illegal and/or retaliatory arrests, and their emphasis to come down hard on quality of life infractions leads to a systemic practice and policy wherein police officers seem fairly tolerant of police brutality, silence in the face of brutality and/or illegal stops, frisks, searches, seizures and/or arrests, and engage in the practice of meeting arrest quotas. A systemic practice where officers who report said misconduct are not viewed as "good cops" but rather as outcasts and are ostracized and often transferred to other

assignments thereby perpetuating the illegal conduct of the NYPD and thusly the CITY.

74. Some instances where officers were treated as outcasts for reporting misconduct and/or arrest/summons quota system are as follows:

a. The existence of arrest quotas, summons quotas and approval of illegal stops and arrests have been exposed by Police officer Adrian Schoolcraft in a separate lawsuit which was cited by Justice Sheindlin in Floyd.

b. Justice Sheindlin referenced the deposition of Police Officer Adhjlly Polanco of the 41st Precinct stating that commanding officers set specific quotas for arrests and summons and for stop and frisks and threatened to reduce overtime for officers who failed to perform well and re-assign those who fail to meet quotas to less desirable posts.

c. According to secretly tape recorded conversations made by Schoolcraft, a Lieutenant, a Deputy Inspector and Chief of transportation can be heard encouraging and demanding increased stops, summons and detentions and arrests.

d. Police Officer Craig Lance of the 42nd Precinct filed a lawsuit against the NYPD claiming the existence of a quota system and a systematic retaliation and harassment to those who did not comply.

e. Retired Detective James Griffin filed a lawsuit claiming that in the NYPD there exists a culture wherein officers who report corruption will face harassment and a hostile work environment and that this conduct was tolerated by supervisors within the NYPD.

f. Police Officer Minoia, an officer with an Ivy League degree, assigned to the 42nd Precinct, was reassigned to a "punishment post" due to the fact that he failed to write a sufficient amount of summons and stated "I'm not going to pull out my summons book and write a summons because my boss is telling me he's going to make it difficult for me if I don't."

75. In sum, the CITY and NYPD are responsible for creating a custom, policy or practice wherein many officers do not seem to believe that anything is really wrong with stopping and searching innocent citizens or using unnecessary or excessive force or falsely arresting citizens to meet an arrest quota.

76. That the above customs, policies and/or practices and the deliberate indifference thereto, was a direct and proximate cause of the illegal seizure of Plaintiff **RAMEL MCCLOSTER**, the excessive use of force on Plaintiff, and the false arrest and malicious prosecution of Plaintiff. The CITY and NYPD'S policies, customs and/or practices deprived the Plaintiff of his rights and liberties as set forth in the Constitutions of the United States and the State of New York and under 42 U.S.C §§ 1983, 1986 and 1988.

77. That said actions violated the Fourth and Fourteenth Amendments to the Constitution of the United States, violated Plaintiff's right to be secure in person, and that the defendants used excessive, unnecessary and unlawful force, which constituted cruel and inhumane treatment and denied him due process of law.

78. Moreover, the CITY and NYPD caused or created a policy and/or custom, and acted with deliberate indifference to patterns and/or police practices which included illegal seizures, excessive or arbitrary use of force, illegal use of police equipment, destruction of evidence, intimidation of witnesses, illegal arrests, failing to gather evidence when allegations of police misconduct are involved, condoning a code of silence within the NYPD regarding misconduct, failing to take police reports of illegal conduct, failing to properly supervise, train, investigate or discipline officers, and any and/or all of the above have contributed to Plaintiff's false arrest, malicious and false prosecution, and injuries.

79. That the Plaintiff did not commit any illegal act, either before or at the time he was

falsely arrested and imprisoned, assaulted, battered and deprived of his constitutional rights as set forth in the Constitution of the United States and 42 U.S.C § 1983.

80. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

AS AND FOR A SEVENTH CAUSE OF ACTION ON BEHALF OF
PLAINTIFF RAMEL MCCLOSTER

81. Plaintiff **RAMEL MCCLOSTER** repeats, reiterates and realleges each and every allegation contained in paragraphs numbered 1 - 80 with the same force and effect as if fully set forth at length herein.

82. At all times mentioned herein and above, defendants CITY and NYPD employed DISIMONE, RIVERA, DOE and ROE as police officers and named defendants were acting under color of law, to wit: the statutes, ordinances and regulations, policies and customs and usage of the State of New York and/or City of New York.

83. Plaintiff **RAMEL MCCLOSTER** is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings this cause of action pursuant to 42 United States Code, Section 1983 and 42 United States Code, Section 1988.

84. That on or about 5/18/16, defendants CITY, NYPD, DISIMONE, RIVERA, DOE and ROE without probable cause, reasonable cause or legal justification and while effectuating the seizure of plaintiff **RAMEL MCCLOSTER**, did search, seize, assault and commit a battery and grab the Plaintiff **RAMEL MCCLOSTER** without a court authorized arrest warrant or search warrant and defendants did physically seize Plaintiff **RAMEL MCCLOSTER** during the arrest process in an unlawful and excessive manner. Plaintiff **RAMEL MCCLOSTER** was falsely arrested, unlawfully imprisoned and strip searched and as a result of defendants' conduct maliciously

prosecuted without the defendants possessing probable cause, reasonable cause or legal justification to do so.

85. The above actions of defendants CITY, NYPD, DISIMONE, RIVERA, DOE and ROE and ROE resulted in Plaintiff **RAMEL MCCLOSTER** being deprived of the following rights under the United States Constitution: a) Freedom from assault to his person; b) Freedom from battery to his person; c) Freedom from illegal search and seizure; d) Freedom from false arrest; e) Freedom from malicious prosecution; f) Freedom from the use of excessive force during the arrest process; and g) The right to Due Process of Law.

86. In addition to the above, defendants CITY and NYPD have as a matter of policy, custom and practice and with deliberate indifference failed to adequately train, monitor, supervise, discipline, sanction or otherwise direct its police officers, including the officers involved in this case and any and all unnamed officers involved in the unlawful seizure and arrest of plaintiff, regarding the protection of the constitutional rights of citizens.

87. Defendants CITY, NYPD, DISIMONE, RIVERA, DOE and ROE subjected Plaintiff **RAMEL MCCLOSTER** to such deprivation in a malicious, reckless, deliberate, intentional, grossly negligent and with a callous disregard of Plaintiff **RAMEL MCCLOSTER'S** rights and with deliberate indifference to those rights under the Fourth, Fifth, Sixth, Fourteenth and all other related Amendments to the United States Constitution.

88. The direct and proximate result of the defendants CITY, NYPD, DISIMONE, RIVERA, DOE and ROE acts are that Plaintiff **RAMEL MCCLOSTER** has suffered severe and permanent injuries, loss of liberty and companionship, forced to endure pain and suffering, emotional distress and severe and significant damage to standing and reputation in the community.

89. That by reason of the foregoing, Plaintiff **RAMEL MCCLOSTER** has been

damaged in an amount that exceeds the jurisdictional limits of all lower trial courts of this state.

WHEREFORE, the Plaintiff **RAMEL MCCLOSTER** demands judgment against the defendants on the First Cause of Action through the Seventh Cause of Action in a sum that exceeds the jurisdictional limits of all lower trial courts of this state for each cause of action, all together with attorney's fees, punitive damages and the costs and disbursements of this action.

Dated: Bronx, New York
 August 4, 2017

Yours, etc.,



NEIL WOLLERSTEIN, ESQ.

Attorney for Plaintiff
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ATTORNEY VERIFICATION

NEIL WOLLERSTEIN, an attorney duly admitted to practice before the courts of the State of New York affirms the following to be true pursuant to CPLR 2106 and under the penalties of perjury:

1. The undersigned, an attorney admitted to practice in the Courts of the State of New York states that he is retained on behalf of the plaintiff.
2. That affirmant has read the foregoing **SUMMONS and VERIFIED COMPLAINT** and knows the contents thereof; that the same is true to affirmant's own knowledge except as to the matters therein stated to be alleged on information and belief; and that as to those matters affirmant believes them to be true.
3. Your affirmant further says that the reason this verification is made by affirmant and not the plaintiff is that the plaintiff is not currently available.

Dated: Bronx, New York
August 4, 2017


NEIL WOLLERSTEIN

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

RAMEL MCCLOSTER,

Plaintiff,

– against –

**CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, DETECTIVE
ANTHONY DISIMONE, DETECTIVE LISANDRO RIVERA, POLICE OFFICER JOHN
DOE and POLICE OFFICER JOHN ROE,**

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

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